

RAILROAD CODE OF 1993 (EXCERPT)
Act 354 of 1993

462.339 Construction, erection, placement, and maintenance of a bridge, structure, pole, or other obstruction or loading or unloading device; compliance with clear spaces; exceptions; application; warning signs; required distance for construction of railroad track or sidetrack; inspection; report; violation; penalty; failure to correct violation; applicability of section.

Sec. 339.

(1) A person shall not construct, erect, or place, and thereafter maintain, over or adjacent to any railroad track or sidetrack which is a part of or is connected with any railroad, any bridge, structure, pole, movable or immovable obstruction, or any loading or unloading device, the movable or immovable or fixed parts of which are within the clear space of 8 feet 6 inches from either side of a perpendicular extending through the center line of a railroad track, which has a radius of not less than 400 feet lateral curvature, or a track with less radius than 400 feet lateral curvature shall be provided with a clear space 9 feet from either side of a perpendicular extending through the center line of the track, or which is within the clear space of 22 feet 6 inches above the plane of the top of the rails of the track, except by the written consent of the department.

(2) This section shall not apply to the following:

(a) Materials used in the construction, maintenance, or repair of railroad tracks when temporarily placed.

(b) Temporarily extended or connected car loading or unloading devices which, when not in use, are removed or secured so as to maintain the clearances prescribed in this section.

(c) Structure or materials below grade level.

(3) A person who desires to construct, erect, or place, and thereafter maintain, over or adjacent to any railroad track or sidetrack which is a part of or is connected with a railroad, any bridge, structure, pole, immovable obstruction, or loading or unloading device, the immovable or fixed parts of which are within the clear spaces over or adjacent to the railroad track which are provided for in subsection (1), and not covered by the exceptions in subsection (2), may make application to the department. Upon the filing of an application, the department may authorize the construction, erection, or placement, and the subsequent maintenance, of a bridge, structure, pole, or other obstruction or loading or unloading device, within such lesser spaces as may be described in the application if, in the judgment of the department, compliance with the clear spaces prescribed in subsection (1) would be unreasonable, unnecessary, or impracticable, and the erection, construction, or placement, and the subsequent maintenance of the bridge, structure, pole, or other immovable obstruction, or loading or unloading device, within such lesser spaces, will not create a hazardous condition to the employees of the railroad.

(4) If any structure or obstruction is at a less distance from any railroad track or sidetrack which is a part of or is connected with a railroad than the clear space required to be maintained from that track or sidetrack pursuant to subsection (1), the railroad company operating the track or sidetrack, if the track or sidetrack is located on the lands or premises owned or controlled by it, or any other person, if the track or sidetrack is located on the lands or premises of another person, shall erect, and thereafter maintain, or cause to be erected or maintained, a warning sign upon or near the structure or obstruction, as a caution to the employees of the railroad company that uses that track or sidetrack. The warning sign shall have black letters upon a white background, and shall contain the words —"WARNING—CLOSE CLEARANCE," or words of a similar purport, with letters of not less than 3 inches in height.

(5) A person shall not, except by the written consent of the department as provided in this section, construct a railroad track or sidetrack where the center line of the track or sidetrack is at a distance of less than 14 feet from the center line of any other parallel railroad track or sidetrack which is adjacent thereto. However, the distance between adjacent tracks may be diminished or closed up, as may be necessary, for the construction of crossovers, turnouts, or switches.

(6) A railroad company that desires to construct a railroad track or sidetrack where the center line of the track or sidetrack is at a distance of less than 14 feet from the center line of any other parallel railroad track or adjacent sidetrack may make application to the department. Upon the filing of an application, the department may authorize the construction of the railroad track or sidetrack within a lesser distance from an adjacent railroad track or sidetrack as may be described in the application if, in the judgment of the department, compliance with the distance of 14 feet would be unreasonable, unnecessary, or impracticable, and the construction of the track within such lesser distance from an adjacent track will not create a hazardous condition to the employees of the person or persons engaged in the operation of the tracks. Nothing in subsection (5) or this subsection shall be construed to require the change of requirements between any railroad tracks or sidetracks existing on the effective date of this act.

(7) The department shall make an inspection within 30 days after receipt of a written complaint by an employee or union whose members are affected by a violation of this act, or upon a written complaint by a person, including a

common carrier, affected by the violation, giving each party of interest 15 days' notice of the date of the inspection. The department may dispose of a complaint by denial for lack of merit in fact or law. The department shall issue a report to each interested party within 30 days after the inspection is conducted. If a party does not file a written objection to the report within 30 days after the transmittal of the report, the report shall become the order of the department.

(8) A person subject to this act, who violates this section, shall be liable for a civil penalty of not more than \$1,500.00, to be collected by the prosecuting attorney of the county where the violation occurred.

(9) If a person thereafter fails to correct a violation of this section when ordered by the department, the person shall be liable for the same fine, to be collected as provided in subsection (8) for each calendar day's delay thereafter in his or her failure to correct the violation of this section.

(10) This section shall not apply to any structure erected and approved by the department before January 1, 1994.

History: 1993, Act 354, Imd. Eff. Jan. 14, 1994